

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TERRI WERTZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No: 4:05CV617 HEA
	)	
BOEING CO.,	)	
	)	
Defendant.	)	

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's request for "A Hearing in Regard to New Motion to Remand this Claim to the Lower Court of Origination," [Doc. # 15]. The Request is denied. On June 17, 2005, this Court dismissed this action because the suit was barred by the doctrine of *res judicata*. Since that Order was entered, plaintiff has filed nothing with this Court until the filing of the instant motion. Plaintiff once again attempts to have this case sent back to the State Court because it is a small claims case. As articulated in the Order of June 17, 2005, this case was properly removed to this Court, notwithstanding the State Court's jurisdiction, because it is based on the provisions of 29 U.S.C. § 1132(a)(1)(B), (ERISA), which gives both the state and this Court concurrent jurisdiction. Further, the Court analyzed whether this matter was barred by *res judicata*, and concluded that the doctrine applied in this case. Plaintiff did not appeal this ruling, nor did she

seek to have the Court reconsider its conclusion. Plaintiff now presents no new reasons for any reconsideration of the June 17, 2005 Order, rather, she again argues the same reasons for sending the case back to the State Court, *i.e.*, because it is a “small claims” case. This argument was attempted previously and failed. Plaintiff cannot now, some six months after the Court’s dismissal, seek a reconsideration of the dismissal of the action without any newly discovered facts which would support a reconsideration. See, Fed.R.Civ.P 60(b).

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s request for “A Hearing in Regard to New Motion to Remand this Claim to the Lower Court of Origination,” [Doc. # 15], is denied.

Dated this 18th day of January, 2006.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE